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Promotion and protection of human rights:
(a) Implementation of human rights instruments

Report of the United Nations High Commissioner for Human Rights on the equitable geographical distribution in the membership of the human rights treaty bodies

I. Introduction

1. In its resolution 63/167 on equitable geographical distribution in the membership of the human rights treaty bodies, the General Assembly encouraged States parties to the United Nations human rights instruments to consider and adopt concrete actions, inter alia, the possible establishment of quota distribution systems by geographical region for the election of the members of the treaty bodies, thereby ensuring the paramount objective of equitable geographical distribution in the membership of those bodies. In the same resolution, the Assembly called upon the States parties to include in their work a debate on ways and means to ensure equitable geographical distribution in the membership of the human rights treaty bodies. The Assembly also recommended, when considering the possible establishment of a quota by region for the election of the membership of each treaty body, the introduction of flexible procedures encompassing three criteria: (a) each of the five regional groups established by the Assembly must be assigned a quota of the membership of each treaty body in equivalent proportion to the number of States parties to the instrument that it represents; (b) there must be provision for periodic revisions that reflect the relative changes in the geographical distribution of States parties; and (c) automatic periodic revisions should be envisaged in order to avoid amending the text of the instrument when the quotas are revised. The Assembly stressed that the process needed to achieve the goal of equitable geographical distribution in the membership of the treaty bodies could contribute to raising awareness of the importance of gender balance, the representation of the principal legal systems and the principle that the members of the treaty bodies should be elected and serve in their personal capacity and be of high moral character, acknowledged impartiality and recognized competence in the field of human rights.

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2. The chairpersons of the human rights treaty bodies were requested to consider the content of the resolution at their annual meeting, and to submit through the United Nations High Commissioner for Human Rights specific recommendations for the achievement of the goal of equitable geographical distribution in the membership of the human rights treaty bodies. The High Commissioner was requested to submit concrete recommendations on the implementation of the resolution to the General Assembly at its sixty-fourth session.

3. The present report, which updates the report on equitable geographical distribution in the membership of the human rights treaty bodies, providing an analysis on the membership of those bodies from 1970 to 2005 (A/60/351), is submitted in response to the requests of the General Assembly.

II. Human rights treaty bodies

4. Eight of the nine international human rights treaties currently in force provide for creation of a committee of experts to carry out functions delineated in the treaty, and, where relevant, its optional protocols. Accordingly, the Committee on the Elimination of Racial Discrimination, established under the International Convention on the Elimination of All Forms of Racial Discrimination, began work in 1970; the Human Rights Committee, established under the International Covenant on Civil and Political Rights, began work in 1977 and is invested with functions by the Covenant and its two Optional Protocols; the Committee on the Elimination of Discrimination against Women, established under the Convention on the Elimination of All Forms of Discrimination against Women, began work in 1982 and is invested with functions by the Convention and its Optional Protocol; the Committee against Torture, established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, began work in 1987; the Committee on the Rights of the Child began work in 1991 and oversees implementation of the Convention on the Rights of the Child and its two Optional Protocols; the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, established under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, began work in 2004; the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, established under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, began work in 2007; and the Committee on the Rights of Persons with Disabilities, established under the Convention on the Rights of Persons with Disabilities, began work in 2009 and oversees implementation of the Convention and its Optional Protocol.

5. The International Covenant on Economic, Social and Cultural Rights does not provide for the creation of a treaty body, but gives the Economic and Social Council a general mandate to oversee implementation of the Covenant by States parties and United Nations specialized agencies through consideration of reports. In 1978, the Council created a Sessional Working Group of Governmental Experts on the implementation of the Covenant to assist it in considering the reports submitted by States parties (decision 1978/10). The composition of the Sessional Working Group was amended by the Council in 1985 (resolution 1985/17) and the Group was renamed the Committee on Economic, Social and Cultural Rights. The Committee, which is treated as a treaty body, first met in 1987. A resolution adopted by the

Human Rights Council has called for the regularization of the Committee so that its establishment is consistent with other treaty bodies (Human Rights Council resolution 4/7).

6. The International Convention on the Protection of All Persons from Enforced Disappearance, which is currently open for signature, accession and ratification, but yet to enter into force, also provides for the creation of a committee to carry out monitoring functions.

III. Election of members of human rights treaty bodies

7. Except in the case of elections of members of the Committee on Economic, Social and Cultural Rights, which are governed by Economic and Social Council resolution 1985/17, the elections of the members of the treaty bodies are governed by provisions set out in each treaty (art. 8, International Convention on the Elimination of All Forms of Racial Discrimination; arts. 28-34, International Covenant on Civil and Political Rights; art. 17, Convention on the Elimination of All Forms of Discrimination against Women; art. 17, Convention against Torture; art. 43, Convention on the Rights of the Child; art. 72, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; arts. 5-9, Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; art. 34, Convention on the Rights of Persons with Disabilities).

8. In accordance with these provisions, each Committee is composed of independent experts, ranging in number from 10 to 23, with provisions for expansion of membership being included in several treaties (up to a maximum of 14 under art. 72, para. 1 (b) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; up to a maximum of 25 under art. 5, para. 1, of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; and up to a maximum of 18 under art. 34, para. 2, of the Convention on the Rights of Persons with Disabilities). Experts are nominated and elected by States parties to the treaty concerned by secret ballot. They serve for four-year terms, and, except in the case of the Subcommittee on Prevention and the Committee on the Rights of Persons with Disabilities, which allow for renomination of members once only, the treaties do not limit the number of times a member's term may be renewed. Most treaties provide that nominees must be nationals of the nominating State party. With the exception of the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which allow for the nomination of two candidates by the State party, all treaties limit the number of nominees to one. Candidates must be nationals of the nominating State party, except in the case of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which entitles States parties to nominate a candidate who is a national of another State party where it nominates two candidates. The other candidate must be a national of the nominating State party, and before it nominates a national of another State party, the nominating State must obtain the consent of the other State party (art. 6).

9. Where the Committee on Economic, Social and Cultural Rights is concerned, Economic and Social Council resolution 1985/17 provides that the Committee shall consist of 18 members who shall be elected by the Council by secret ballot from a list of persons nominated by States parties to the Covenant. Members serve for four-year terms and are eligible for re-election if nominated. The elections of members in respect of all other treaty bodies take place at biennial meetings of the States parties, or in the case of the Committee on the Rights of Persons with Disabilities, Conference of States Parties, of the treaty concerned. In all cases, in order to avoid the change of the entire membership, the terms of half of the members elected at the first elections are limited to two years, following which elections occur every two years.

A. Qualification for nomination as members

10. The qualifications expected of nominees set out in the treaties and Economic and Social Council resolution 1985/17 vary. In general, members are required to be of recognized competence and of high moral standing and acknowledged impartiality. The International Covenant on Civil and Political Rights also indicates that consideration should be given to the usefulness of the participation of some persons having legal experience (art. 28, para. 2), while the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment provides that in nominating candidates, States parties should bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee and who are willing to serve on the Committee against Torture (art. 17, para. 2). The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment indicates that members should have proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to persons deprived of their liberty (art. 5, para. 2). In the case of the Committee on the Rights of Persons with Disabilities, States parties are invited to give due consideration to article 4, paragraph 3, when nominating candidates (art. 34, para. 3). This requires States parties to closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations in the development and implementation of legislation and policies to implement the Convention and other decision-making processes concerning issues relating to persons with disabilities. All treaties, as well as Council resolution 1985/17, indicate that members serve in their personal capacity.

B. Criteria for election

11. The treaties, and Economic and Social Council resolution 1985/17, provide criteria for States in election of members. In all cases, consideration must be given to equitable geographical distribution. Additional considerations include representation of the principal legal systems (Conventions on the: Elimination of Racial Discrimination; Elimination of All Forms of Discrimination against Women; Rights of the Child; Rights of Persons with Disabilities), the different forms of social and legal systems (Committee on Economic, Social and Cultural Rights), the different forms of civilization (Conventions on the: Elimination of Racial Discrimination; Elimination of All Forms of Discrimination against Women; Rights of Persons with Disabilities), different forms of civilization and legal systems of the

States parties (Optional Protocol to the Convention against Torture) or the usefulness of legal experience (International Covenant on Civil and Political Rights; Convention against Torture).

12. The newer treaties provide explicit provisions relating to gender balance. Thus, in the composition of the Subcommittee on Prevention, due consideration is to be given to "balanced gender representation on the basis of equality and non-discrimination" (art. 5, para. 4). Where the Committee on the Rights of Persons with Disabilities is concerned, States parties are also required to give consideration to balanced gender representation and participation of experts with disabilities. The International Convention for the Protection of All Persons from Enforced Disappearance also requires due account to be taken of balanced gender representation (art. 26, para. 1).

13. Allocation of membership on a regional basis applies only in the case of the Committee on Economic, Social and Cultural Rights, with Economic and Social Council resolution 1985/17 providing that 15 seats on the Committee will be equally distributed among the regional groups, while the additional 3 seats will be allocated in accordance with the increase in the total number of States parties per regional group.

C. Replacement of members

14. Provisions relating to the replacement of members who resign or cannot continue as members before the end of their term are contained in all the treaties. In most cases, the State party that nominated the member appoints another expert from among its nationals to fill the vacancy for the remainder of the term, subject in some cases to the approval of the relevant treaty body (Committees on: the Elimination of Racial Discrimination; the Elimination of Discrimination against Women; the Rights of the Child; Migrant Workers). In the Committee against Torture this is subject to the approval of other States parties. Replacement in these cases has no impact on the geographical distribution of the membership on the treaty body concerned. Where the Human Rights Committee is concerned, article 34 of the International Covenant on Civil and Political Rights requires an election in the case of a vacated membership, provided that the term has at least six months to run. Although this may result in a change in the geographical composition of the Committee, in practice, the nationality of the member has changed only once on the occasions that members of the Committee have been replaced, with the replacement being from the same regional group as the original member.

D. Membership of the treaty bodies

15. Since 1 January 2006, 188 individuals have served as members of treaty bodies, with 63 serving consecutive terms. A total of 26 individuals from 21 States have served on the Committee on the Elimination of Racial Discrimination, 28 individuals from 24 States parties have served on the Human Rights Committee, 37 individuals from 31 States parties have served on the Committee on the Elimination of Discrimination against Women, 13 individuals from 10 States parties have served on the Committee against Torture, 28 individuals from 28 States parties have served on the Committee on the Rights of the Child, 22 individuals from 19 States parties have served on the Committee on Economic, Social and Cultural

Rights, 12 individuals from 11 States parties have served on the Committee on Migrant Workers, 10 individuals from 10 States parties have served on the Subcommittee on Prevention, and 12 individuals from 12 States parties have served on the Committee on the Rights of Persons with Disabilities. Of these, 41 have come from Africa, 39 from Asia, 23 from Eastern Europe, 36 from Latin America and the Caribbean and 49 from the Western European and Others Group. The membership of each treaty body per regional group as recognized by the General Assembly, in comparison with the ratification per regional group calculated at the time of the most recent election to the treaty body concerned, is contained in table 1.

Table 1
Ratifications and membership of treaty bodies according to Regional Group

	Ratifications[a] *(percentage)*	*Committee*[b] *(percentage)*
Committee on the Elimination of Racial Discrimination		
Last election of members held on 17 January 2009		
Total number of ratifications at the time of the election: 173		
Africa	27.7	27.8
Asia	23.7	16.7
Eastern Europe	13.3	11.1
Group of Latin American and Caribbean States	17.9	16.7
Western European and Others Group	17.3	27.8
Human Rights Committee		
Last election of members held on 4 September 2008		
Total number of ratifications at the time of the election: 162		
Africa	30.9	33.3
Asia	19.7	11.1
Eastern Europe	14.2	5.5
Group of Latin American and Caribbean States	17.3	16.7
Western European and Others Group	17.9	33.3
Committee on Economic, Social and Cultural Rights		
Last election of members held on 29 April 2008		
Total number of ratifications at the time of the election: 158		
Africa	30.4	22.2
Asia	20.9	22.2
Eastern Europe	14.6	16.7
Group of Latin American and Caribbean States	17.1	16.7
Western European and Others Group	17.1	22.2
Committee on the Elimination of Discrimination against Women		
Last election of members held on 30 July 2008		
Total number of ratifications at the time of the election: 185		
Africa	27.0	22.7
Asia	28.1	27.2

	Ratifications[a] *(percentage)*	*Committee*[b] *(percentage)*
Eastern Europe	12.4	13.6
Group of Latin American and Caribbean States	17.3	13.6
Western European and Others Group	15.1	22.7
Committee against Torture		
Last election of members held on 8 October 2007		
Total number of ratifications at the time of the election: 145		
Africa	31.0	20
Asia	17.9	20
Eastern Europe	15.2	10
Group of Latin American and Caribbean States	15.2	20
Western European and Others Group	20.7	30
Committee on the Rights of the Child		
Last election of members held on 16 December 2008		
Total number of ratifications at the time of the election: 193		
Africa	26.3	33.2
Asia	27.9	16.7
Eastern Europe	11.9	16.7
Group of Latin American and Caribbean States	18.9	5.6
Western European and Others Group	15.0	27.8
Committee on the Rights of Migrant Workers		
Last election of members held on 6 December 2007		
Total number of ratifications at the time of the election: 37		
Africa	35.1	30
Asia	20	20
Eastern Europe	8.1	10
Group of Latin American and Caribbean States	35.1	30
Western European and Others Group	2.7	10
Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment		
Last election of members held on 30 October 2008		
Total number of ratifications at the time of the election: 35		
Africa	14.3	0
Asia	5.7	0
Eastern Europe	31.4	30
Group of Latin American and Caribbean States	28.6	40
Western European and Others Group	20	30
Committee on the Rights of Persons with Disabilities		
Last election of members held on 3 November 2008		
Total number of ratifications at the time of the election: 25		
Africa	28	16.7

	Ratifications[a] *(percentage)*	*Committee*[b] *(percentage)*
Asia	8	33.3
Eastern Europe	12	16.7
Group of Latin American and Caribbean States	40	16.7
Western European and Others Group	12	16.7

[a] Ratio of ratifications of countries in the regional group to the total number of ratifications at the time of the most recent election to the treaty body concerned.

[b] Present ratio of Committee members representing countries in the regional group to the total number of Committee members.

During this period, men have continued to outnumber women as treaty body members (see table 2).

Table 2
Gender composition of treaty bodies, 2006-2009

Committee	*Gender*	*2006*	*2007*	*2008*	*2009*
Committee on the Elimination of Racial Discrimination	Male	16	16	17	17
	Female	2	2	1	1
	Total	**18**	**18**	**18**	**18**
Human Rights Committee	Male	15	13	13	13
	Female	3	5	5	5
	Total	**18**	**18**	**18**	**18**
Committee on Economic, Social and Cultural Rights	Male	13	14	14	15
	Female	4	4	4	3
	Total	**17**	**18**	**18**	**18**
Committee on the Elimination of Discrimination against Women[a]	Male	1	1	1	2
	Female	22	22	21	20
	Total	**23**	**23**	**22**	**22**
Committee against Torture	Male	7	7	6	6
	Female	3	3	4	4
	Total	**10**	**10**	**10**	**10**
Committee on the Rights of the Child	Male	9	8	9	9
	Female	9	10	10	9
	Total	**18**	**18**	**19**	**18**

Committee	*Gender*	*2006*	*2007*	*2008*	*2009*
Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families	Male	8	8	7	7
	Female	2	2	3	3
	Total	**10**	**10**	**10**	**10**
Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Male	—	8	8	8
	Female	—	2	2	2
	Total	—	**10**	**10**	**10**
Committee on the Rights of Persons with Disabilities	Male	—	—	—	7
	Female	—	—	—	5
	Total	—	—	—	12

[a] The Committee is comprised of 23 members. In 2007, one of its members resigned and the nominating State has yet to nominate a substitute member.

E. Chairpersons of the human rights treaty bodies

16. At their twenty-first meeting, in July 2009, the chairs of the human rights treaty bodies considered General Assembly resolution 63/167. The chairs noted the importance of the issue and took account of the current membership of the treaty bodies, identifying some trends, including the absence of Asian and African members on the Subcommittee on Prevention, and the limited number of members from Eastern Europe in various treaty bodies. However, the chairs stressed that nomination and election of treaty body members was regulated by the various treaties or, in the case of the Committee on Economic, Social and Cultural Rights, resolution 1985 of the Economic and Social Council, and was the responsibility of States parties.

17. The chairs recommended that States parties, when nominating and electing members of the treaty bodies, should take into account the provisions set out in the legally binding human rights instruments to this effect. States parties should give due consideration to equitable geographical distribution, independence of experts, representation of different forms of civilization and legal systems, balanced gender representation and expertise from various professional fields.

IV. Conclusion

18. **Under the terms of the eight human rights treaties currently in force that establish a treaty body, the modalities for the nomination and election of treaty body members is a matter for the States parties. Where the Committee on Economic, Social and Cultural Rights is concerned, the nomination of candidates for election is a matter for States parties, whereas election is a**

matter for the members of the Economic and Social Council, with geographical distribution being subject to Council resolution 1985/17.

19. **The United Nations High Commissioner for Human Rights recommends that States parties apply the provisions relating to nomination and election of treaty body members in the human rights treaties, as well as Economic and Social Council resolution 1985/17, when nominating and electing members.**

20. **The High Commissioner also recommends that the present report be forwarded to the chairs of the meetings or conferences of States parties, as well as the Economic and Social Council, for the consideration of those forums during their next meetings.**